

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

ROBERT J. BURGESS)	
Plaintiff,)	
v.)	Civil No. 02-cv-3694
UNITED STATES OF AMERICA)	
Defendant.)	

UNITED STATES' MOTION FOR SUMMARY JUDGMENT

Defendant, United States, through undersigned counsel and pursuant to Fed. R. Civ. P. 56, respectfully moves this Court for summary judgment in Defendant's favor and against plaintiff. As grounds for its motion, the United States asserts that the plaintiff's 1995, 1996, and 1998 tax returns are patently frivolous, and the frivolous return penalty assessments were valid. Further, the Internal Revenue Service ("IRS") did not abuse its discretion in its administrative determination that the collection activity – the notice of intent to levy – was appropriate. Finally, the Court lacks jurisdiction to consider plaintiff's claim for punitive damages.

The declaration of Edward Devine and a memorandum of points and authorities in support of this motion are attached hereto and incorporated herein.

DATED: November _____, 2003

Respectfully submitted,

PATRICK L. MEEHAN
United States Attorney

BEATRIZ T. SAIZ
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 227
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 307-6585

